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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/530,785

05/05/2000

SIMON A BEDDUS

36-1338

3443

7590

05/20/2005

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EXAMINER

MEHRA, INDER P

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/530,785

Applicant(s)

BEDDUS ET AL.

Examiner

Inder P. Mehra

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2666

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-10 and 17-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-10 and 17-21 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

***Response to Amendment***

1. This is in response to an amendment C dated 12/15/04 which has been fully considered and made of record. Based on this amendment, claim 1 was cancelled in amendment B dated 8/28/03, claims 13-16 were cancelled in amendment C dated 6/4/04 and claim 11-12 have been cancelled in instant amendment dated 12/15/04. Claims 19-21 were added in amendment C. Claims 2, 8, 10, 17-21 have been amended. Claims 2-10 and 17-21 are now pending. Applicant's amendment to claims 2, 8, 10, 17-21 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

***Claim Objections***

2. Claim 9 is objected to because of the following informalities:

Claim 9 (line 1) recites the limitation "A communication network". There is insufficient antecedent basis for this limitation in the claim. Applicant argues that Claim 9 properly recites the limitation (A communication network (emphasis added)," since there is no previous recitation of this limitation in claim 8 from which claim 9 depends. In response, it is stated that claim 9, which recites "A communication network", is dependent from claim 8 which is "A communication terminal". Dependent claim should be in continuation of same environment and be narrower in scope.

Appropriate correction/clarification is required.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 2-3 and 8-10 and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over **P.Mikelaitis** (A Tutorial on ISDN customer call control, part 1, the telecommunication journal of Australia, vol. 38, No. 1, pages 75-92, XP002075878), hereinafter, **Mikelaitis** in view of **Christensen et al** (US Patent no. 5,561,666), hereinafter, **Christensen**, further in view of **Mori, Naoki** (EP 0606079), hereinafter, **Mori**, and **Yuasa et al** (US Patent No. 6,085,238), hereinafter, **Yuasa**.

For claims 2-3, 8-10 and 17-21, Mikelaitis discloses a method of operating a communications systems including terminals (claim 9), refer to paragraph 4.3 and figs. 5.1 and 5.2, comprising:

- exchanging (see figs. 5.3 and 5.8, paragraphs 5.4 and 5.5 respectively) between communication terminals ("customers") call control capability data ("signaling dialogue", refer to paragraph 4), which call control capability data identifies for each respective terminal at least a selected one or more of a plurality of different call control protocols (message sequences, refer to paragraph 4 and different network addresses, as recited by claims 2-3, 8-10 and 17-21 (individual characteristics), refer to paragraph 4;

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- setting up a call between the said communications terminals using call control protocols or network addresses identified in call control capability data, **as recited by claims 2-3, 8-10 and 17-21**, (paragraph 4, capability data, setup control, refer to paragraph 4);
- wherein the exchanging of the call control capability data is carried out ***prior to initiating call set up, as recited by claims 2-3, 8-10 and, 17-21***, (once the network is able to proceed with the call (i.e all necessary information is available to the exchange) a signaling association over CCSS No. 7 is established between the calling and called exchanges , paragraph 5.4, once the D-channel signaling dialogue results in network wide connection for user traffic---a customer can not only ***transfer information —but can also transfer user information***, paragraph 5.5).
- wherein a first one of the commuting terminals initiates the exchange of call control capability-----***returns an acknowledgement to request —includes call control capability data for —terminals, as recited by claim 3***, ( messages of both groups, connect acknowledge, set up acknowledge), refer to paragraphs 5.4 and 5.5.

Mikelaitis discloses, “wherein the exchanging of the call control capability data is carried out ***prior to initiating call set up, as recited by claims 2, 17 and 18, and 18, as explained above***;

However, Christensen discloses expressly, “wherein the exchanging of the call control

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capability data is carried out *prior to initiating call set up* (a station---network *determines the mode in which it communicates with a concentrator port by establishing a Registration routing---*. *The station and concentrator port exchange frames which disclose the capabilities of concentrator port, refer to abstract, and co. 2 lines 17-22.*

Further, Mori, Naoki (EP 0606079) discloses explicitly, “**the call control capability data**” (user terminals transmit a signaling packet) **which call control capability data identifies for each respective terminal at least a selected one of a plurality of different call control protocols and different network addresses** (containing in it a source network address (a protocol identifier plus a source network address) and (a destination network address (the protocol and destination user address)), refer to abstract and col. 1 lines 15-20 and col. 1 line 56 through col. 2 line 6, col. 2 lines 18-22.

Mori, Naoki (EP 0606079) discloses explicitly, “wherein the exchanging of the call control capability data is carried out prior to initiating call set-up”, refer to col. 1 lines 22-23 and col. 3 lines 30-34.

Yuasa discloses explicitly “**call control capability data identities for each respective terminal a plurality of different call control protocols and different network addresses**” (At the third layer level of OSI protocol layer model with a plurality of network addresses depending on communication protocol defined as client addresses, in conformity with the conventional standard, ---and VLAN group is supported for terminals in conformity with the conventional standard, refer to col. 22 lines 44-50; a plurality of virtual network groups (third layer level) different in communication protocol can be defined and a

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plurality of virtual custom groups can be defined at the application level, refer to col. 21 lines 59-65.).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to use the capability of , “exchanging of the call control capability data is carried out *prior to initiating call set up*” . The capability can be implemented by the user network interface (UNI) to initiate and determine the mode and carry the capability data *prior to initiating call set up, as taught by Mori; and “call control capability data identities for each respective terminal a plurality of different call control protocols and different network addresses”, as taught by Yuasa.* . The suggestion/motivation to do so would have been to match the traffic types and quality of service requirements.

5. Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over **P.Mikelaitis, Christensen, Mori and Yuasa**, as applied to claim 2 above, and further in view of **Katsube** (US Patent no. 4,984,264).

For claims 4 and 5, Mikelaitis Christensen, Mori and Yuasa disclose a method comprising the steps described in paragraph 4 of this office action.

Mikelaitis and Christensen disclose all the subject matter of the claimed invention with the exception of :

- monitoring continuously at a communications terminal a communication port and carrying out the exchange of call control capability data whenever a request is received at the said port, as recited by claim 4;

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- monitoring of the communications port continues after a call has been set up, as recited by claim 5;

Katsube discloses monitoring continuously at a communications terminal a communication port and carrying out the exchange of call control capability data whenever a request is received at the said port, refer to col. 7 lines 54-63 ; and monitoring of the communications port continues after a call has been set up, refer to col. 7 lines 43-50;

A person of ordinary skill in the art would have been motivated to employ Katsube's cell flow monitoring system into Mikelaitis's "Tutorial on ISDN customer call control" in order to monitor and control the execution of exchange of data across two terminals. The suggestion/motivation to do so would have been to transmit successfully information from terminals having various characteristics.

6. Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over **P. Mikelaitis and Christensen, and Mori** as applied to claim 2 above, and further in view of **Markgraf et al** (US Patent no. 6,181,691), hereinafter, Markgraf.

For claims 6 and 7, Mikelaitis and Christensen disclose a method comprising the steps described in paragraph 4 of this office action.

Mikelaitis and Christensen disclose all the subject matter of the claimed invention with the exception of :

- communicating as part of the said call control capability data a pointer to a source of further data identifying capabilities not provided for directly in the call control capabilities exchange protocol, as recited in claim 6;



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- the pointer is a uniform resource locator (URL), as recited by claim 7;

Markgraf discloses communicating as part of the said call control capability data a pointer to a source of further data identifying capabilities not provided for directly in the call control capabilities exchange protocol; and the pointer is a uniform resource locator (URL); (URL specifies high level communication function like “set up connection” and “participate in connection”, refer to abstract and col. 3 lines 10-15 and col. 4 lines 25-30.

A person of ordinary skill in the art would have been motivated to employ Markgraf's telephone system into Mikelaitis's “Tutorial on ISDN customer call control” in order to provide “URL” pointer. The suggestion/ motivation to do so would have been to transmit successfully information from terminals having various characteristics.

### ***Response to Arguments***

7. Applicant's arguments filed 12/15/04 have been fully considered but they are not persuasive.

a. Applicant argues, “In order to establish a prima facie case of obviousness, all of claimed limitations must be taught or suggested by the prior art.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071,

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5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

b. Applicant argues, “None of Mikelaitis, Christensen and Mori describes exchanging or receiving different call control protocols and network addresses and **then** setting up the ultimate call by selecting one of the different call control protocols and one of the different network addresses.

In response, it is stated that Mikelaitis discloses, “once the network is able to proceed with the call (**i.e all necessary information is available to the exchange**) a signaling association over CCSS No. 7 is established between the calling and called exchanges , paragraph 5.4, **once the D-channel signaling dialogue results in network wide connection for user traffic**----a customer can not only *transfer information* **—but can also transfer user information (set up the call)**, paragraph 5.5).

Further, Christensen discloses expressly, “wherein the exchanging of the call control capability data is carried out *prior to initiating call set up* (a station---network *determines the mode in which it communicates with a concentrator port by establishing a Registration routing*----. *The station and concentrator port exchange frames which disclose the capabilities of concentrator port, refer to abstract, and col. 2 lines 17-22.*

c. Further, applicant agrees, page 11 second paragraph (lines 12-14), that “although it specifies that a user terminal communicates with other user terminals using one or more protocols, whenever a connection is set up,---”

Applicant disagrees and argues, “Although it specifies that a user terminal communicates with other user terminals using one or more protocols, whenever a connection is set up, **it is**

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**done so using one pre-selected network address of the destination user terminal. There is no teaching or suggestion of sending a message containing multiple different network addresses and call control protocols.**

In response, it is stated that Mikelaitis discloses establishes an ISDN call set up, refer to paragraph 5.4, prior to fig. 5.3b. Once the signaling messages are complete, "call proceeding" message is sent in response.

Further, Mori, Naoki (EP 0606079) discloses explicitly, **"the call control capability data"** (user terminals transmit a signaling packet) **which call control capability data identifies for each respective terminal a plurality of different call control protocols and different network addresses** (containing in it a source network address (a protocol identifier plus a source network address) and (a destination network address (the protocol and destination user address), refer to abstract and col. 1 lines 15-20 and col. 1 line 56 through col. 2 line 6, col. 2 lines 18-22.

Mori, Naoki (EP 0606079) discloses explicitly, "wherein the exchanging of the call control capability data is carried out prior to initiating call set-up", refer to col. 1 lines 22-23 and col. 3 lines 30-34.

Further, Pelavin (US Patent No. 6,883,034) discloses the construction of the MPT, which stands for the Multiple Protocol Topology is described. Referring to FIG. 1B, the MPT is constructed in Step 104. The MPT is constructed from the set of SPTs (Single Protocol Topology). The MPT is a data source that captures the interrelationships between the different Level 3 topologies, each of which is encoded as an SPT. A single router's physical port can have multiple Level 3 addresses configured on it with different protocols. When there are multiple addresses from different protocols assigned to a router's ports in the network, there is potential

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for logical topologies with incompatible addresses, refer to col. 33 lines 24-37, step 104 in fig. 1B, and fig. 4B.

d. Applicant argues “the combination fails to teach or suggest setting up a call between the communications terminals using a call control protocol and network address selected from the plurality of different call control; and further, argues “Although it (Mori’s reference) specifies that a user terminal communicates with other user terminals using one or more protocols, whenever a connection is set up, it is done so using one pre-selected network address of the destination user terminal. There is no teaching or suggestion of sending a message containing multiple different network addresses and call control protocols.

In response, it is stated that Yuasa discloses explicitly “**call control capability data identities for each respective terminal a plurality of different call control protocols and different network addresses**” (At the third layer level of OSI protocol layer model with a plurality of network addresses depending on communication protocol defined as client addresses, in conformity with the conventional standard, ----and VLAN group is supported for terminals in conformity with the conventional standard, refer to col. 22 lines 44-50; a plurality of virtual network groups (third layer level) different in communication protocol can be defined and a plurality of virtual custom groups can be defined at the application level, refer to col. 21 lines 59-65.).

**In light of above explanation, arguments provided by Applicant are not persuasive.**

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8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Inder P. Mehra whose telephone number is 571-272-3170. The examiner can normally be reached on Monday through Friday from 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema Rao can be reached on 571-272-3174. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**FRANK DUONG**  
**PRIMARY EXAMINER**

*Inder Pal Mehra*  
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Examiner  
Art Unit 2666  
5/11/05